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10/004,514	11/02/2001	Charles Elkan	117-001	4605

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EXAMINER

NGUYEN, CAM LINH T

ART UNIT PAPER NUMBER

2161

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,514

Applicant(s)

ELKAN, CHARLES

Examiner

CamLinh Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 4 - 7, 10 - 30 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3, 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 - 7, 10 - 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. This Office Action is response to the RCE filed on 6/1/05.
2. Claims 2 – 3, 8 – 9, have been cancelled. Claims 1, 4 – 7, 10 – 30 are currently pending.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 4 – 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological art. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological art fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the

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preamble. In Bowman (Ex parte Bowman, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished), the board affirmed the rejection under U.S.C. 101 as being directed to non-statutory subject matter. Although Bowman discloses transforming physical media into a chart and physically plotting a point on said chart, the Board held that the claimed invention is nothing more than an abstract idea, which is not tied to any technological art or environment.

In the present case, although claims 4 - 15 recite an abstract idea of a method for obtaining and automatically associating a quality value to an item of data, however, the language of the claims raise a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101, which can be implemented by the mind of a person or by the use of a pencil and paper. In another words, since the claimed invention, as a whole, is not within the technological arts as explained above, these claims only constitute an idea and does not apply, involve, use, or advance the technological arts, thus, it is deems to be directed to non-statutory subject matter.

5. To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of application amending these claims to place them within the four statutory categories of invention.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the term “profile” was being used before it was created. (see limitation 2 and 4 of claim 1).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4 – 7, 10 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agrawal et al (U.S. 6,233,575) in view of Sean Suchter (U.S. 6,675,161 B1).

♦ As per claim 4, 16,

Agrawal et al [Agrawal] discloses a method of obtaining and automatically associating a quality value to an item of data comprising:

- “Obtaining at least one item of data from a source” See col. 10, lines 24 - 37
- “Obtaining labels for at least one of said item of data” See col. 10, lines 12 - 22. As defined in the disclosure page 15, labels are provided by human and indicate level of quality, interestingness. Agrawal teaches that the documents are classified in a hierarchical order (see Fig. 2), which includes a plurality of levels of quality. Therefore, the “labels” corresponds to the “categories label” or “topics labels” of the resources.

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- “Selecting items of data with certain labels to form training data” See col. 10, lines 38 - 46.
- “Creating a profile from said training data” See fig. 3, element 49. The “profile” corresponds to the “class models” and the “statistic information” (See col. 11, lines 20 - 25).
- “Associating a quality value to at least one of said items of data using said profile” See col. 9, lines 4 – 12.

Agrawal does not clearly disclose that the value is a quality value and the quality value is based on low-level features of said item selected from the group consisting of length, vocabulary, ... reading grade level...” However, Suchter, on the other hand, discloses a method for classify documents into plurality of categories (col. 11, lines 9 – 11, Suchter) comprising a quality value field for the user to grade the documents (col. 11, lines 59 – 64, claim 3 of Suchter). The quality value is associated with the document (col. 20, lines 31 – 52 of Suchter).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the quality value of Suchter into the invention of Agrawal because the combination would provide the user more accurate result in the search process.

◆ As per claim 5, 17, the combination of Agrawal and Suchter disclose:

- “Receiving requests from clients” See col. 9, lines 35 – 38 of Agrawal.
- Transmitting at least one item of data according to said request and said associated values to said client” See col. 9, lines 40 – 49 of Agrawal.

◆ As per claim 6, 18, the combination of Agrawal and Suchter disclose:

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- “Introducing at least one new item of data to said training data and generating a new profile from said training data” See Fig. 4, element 62, 66 of Agrawal.
- ◆ As per claim 7, the combination of Agrawal and Suchter disclose:
  - “Profile is automatically generated” See Fig. 4, element 68 of Agrawal.
- ◆ As per claim 10 - 11, 19 – 22, 30, the combination of Agrawal and Suchter disclose:
  - “Quality value is measured on a quantitative scale of measurement” or “categorical scale” col. 11, lines 59 – 64, claim 3 of Suchter.
- ◆ As per claim 12 - 13, 23 – 24, 26 – 27, the combination of Agrawal and Suchter disclose:
  - “Storing said items of data in a database” and “Storing said associated values in a database” See col. 8, lines 30 – 36 of Agrawal.
- ◆ As per claim 14 - 15, the combination of Agrawal and Suchter disclose:
  - “Obtaining labels ... is accomplished by a human providing said labels” Agrawal teaches that the documents are classified in a hierarchical order (see Fig. 2), which includes a plurality of levels of quality. Therefore, the “labels” corresponds to the “categories label” or “topics labels” of the resources.
- ◆ As per claim 25, 28 - 29, the combination of Agrawal and Suchter disclose:

Claims 25, 28 - 29 are rejected based on the rejection of claims 4 - 5, and 9 of Agrawal.
- ◆ As per claim 1, the combination of Agrawal and Suchter disclose:

With all limitation as claimed in claim 4, further claim 1 comprising a “downloading component for obtaining item data” See col. 10, lines 30 – 37 of Agrawal.

***Response to Arguments***

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10. Applicant's arguments with respect to claims 1, 4 – 7, 10 – 30 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272-4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN

  
ALFORD KINDRED  
PRIMARY EXAMINER